

REMARKS

Claims 1-3, 6, 7, 9-15, and 17-22 are currently pending in the application after entry of the present amendment. Claim 1 recites “wherein a plurality of microperforations is disposed through the wall thicknesses composing the coincident peaks and the wall thicknesses composing the coincident valleys.” Claim 13 recites “forming a plurality of microperforations disposed through the deposited graft-forming material forming the coincident peaks and the coincident valleys.” Claim 18 recites “a plurality of microperforations is disposed through the wall thicknesses composing the coincident peaks and the wall thicknesses composing the coincident valleys.” Support for these amendments is found on page 21, lines 24-27, in combination with figure 12.

A. Palmaz in view of Casey does not render obvious the implantable medical graft

The Palmaz and Casey references alone or in combination, do not render obvious the recitations as set in Claims 1, 3, 13-14, 17-18, and 20. One skilled in the art appreciates that there are differences between Palmaz in view of Casey and the current invention.

The Palmaz and Casey references in the hands of a person of ordinary skill in the art, do not combine to provide microperforations as disclosed in the claims. A person of ordinary skill in the art of making a flexible graft by vacuum deposition of metallic or pseudometallic materials would not have had a reason to combine Casey’s non-metallic force conformed graft, as described in the above-quoted passage, with the metallic structures disclosed in Palmaz.

Claims 1 and 18 recite a plurality of microperforations disposed through the wall thickness forming the coincident peaks and the wall thickness forming the coincident valleys. Claim 13 recites forming a plurality of microperforations through the graft-forming material forming the coincident peaks and the coincident valleys.

The Palmaz and Casey references in the hands of a person of ordinary skill in the art, do not combine to provide an implantable medical graft having the particular construction recited by claims 1, 3, 13-14, 17-18, and 20. It is suggested in the Office Action the structural members of Palmaz form the coincident peaks and valleys as required in the claims. However, Palmaz specifically points out that, when structural members are used in the invention, there is a plurality of openings *only* in the web of the device, and not in the structural members: “the web regions of the inventive web-stent, the graft regions of the inventive stent-graft... have a plurality

of openings which pass through the thickness of the stent material used to fabricated (sic) the inventive device.” Page 20, lines 26-29. The web regions and graft regions of Palmaz are described as “regions... between adjacent structural members.” Page 20, lines 22-23. Nowhere does Palmaz disclose a plurality of openings passing through the structural members which form the coincident peaks and coincident valleys. As such, Palmaz does not teach or suggest every element of the claims.

One skilled in the art would appreciate that Casey fails to suggest a plurality of microperforations. Casey discloses a sectional crimped graft made from a non-metallic material that is formed by applying mechanical or fluid force to cause the graft to conform to the shape of a mandrel. Therefore, taken in combination, Palmaz and Casey do not teach or suggest forming a plurality of microperforations through the wall thicknesses at the coincident peaks and coincident valleys.

“All words in a claim must be considered in judging the patentability of that claim against prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). MPEP §2143.03. For at least the reasons stated above, it follows that independent claims 1, 13, and 18 cannot be rendered obvious by a combination of Palmaz and Casey. Claims 3, 14, 17, and 20 are dependent from claims 1, 13, and 18, and therefore are also nonobvious. Therefore, Applicant respectfully requests the Examiner withdraw the rejection against claims 1, 3, 13-14, 17-18 and 20, and timely issue a notice of allowability therefore.

B. Palmaz in view of Casey and further in view of Chuter does not render obvious the implantable medical graft

On skilled in the arts would appreciate Palmaz in view of Casey further in view of Chuter does not teach or suggest the disposition of a plurality of microperforations through the wall thicknesses or the graft-forming material at the coincident peaks and coincident valleys. Neither Palmaz nor Casey teach this requirement, nor do either, taken singly or in combination, when combined with Chuter. Claims 2, 11-12, 15, and 19 are dependent from claims 1, 13, and 18, and therefore are also nonobvious. Accordingly, Applicant respectfully requests the Examiner withdraw the rejection against claims 2, 11-12, 15, and 19, and timely issue a notice of allowability therefore.

C. Palmaz in view of Casey, Chuter, and in further view of Kula et al. (6,325,825) does not render obvious the implantable medical graft.

One skilled in the arts would appreciate Palmaz in view of Casey, Chuter, and further in view of Kula does not teach or suggest the disposition of a plurality of microperforations through the wall thicknesses or the graft-forming material at the coincident peaks and coincident valleys. Neither Palmaz nor Casey teach this requirement, nor do either, taken singly or in combination, when combined with Chuter. Claims 6-7, 9-10, and 21-22 are dependent from claims 1, 13, and 18, and therefore are also nonobvious. Accordingly, Applicant respectfully requests the Examiner withdraw the rejection against claims 6-7, 9-10, and 21-22, and timely issue a notice of allowability therefore.

In view of the foregoing, the Application has demonstrated the allowability of Claims 1, 2, 3, 11-15, 17-19, and 20. Accordingly, these claims are allowable.

The present communication responds to the Office Action mailed March 9, 2011. Applicant submits payment of a one month extension fee, along with the required filing fees for the Request for Continued Examination (RCE) being filed concurrently, herewith. No further fees are believed due with this submission, however, the Office is authorized to deduct any deficiencies in fees from Deposit Account 18-2000.

Respectfully Submitted,

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